

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-342-C - ORDER NO. 2004-56

FEBRUARY 9, 2004

IN RE: Phillip A. Bragg d/b/a ALCO Bonding,)	ORDER GRANTING
)	EXTENSIONS TO FILE
Complainant/Petitioner,)	ANSWER AND
)	TESTIMONY AND
vs.)	EXHIBITS
)	
Talton Communications of Carolina, Inc. and)	
Evercom Systems, Inc.,)	
)	
Respondents/Defendants.)	
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✓ RRG

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on the requests of Phillip A. Bragg d/b/a ALCO Bonding (“Bragg” or “Petitioner”) for a two (2) day extension of time in which to answer the Amended Cross-Petition of Talton Communications of Carolina, Inc. and Evercom Systems, Inc. (“Evercom” or “Respondents”) (collectively the “Parties”) and for a one (1) day extension to prefile testimony in the present matter. This proceeding was instituted by Bragg on November 19, 2003, by the filing of a Petition for Declaratory Order or in the Alternative for Appropriate Damages (“Petition”) against Respondent Evercom.

Pursuant to Commission Regulations 103-837 and 103-841, Evercom filed an Answer and Cross-Petition for Declaratory Order with Bragg and the Executive Director of the Commission on December 10, 2003, within the required thirty (30) days after service of Notice and Complaint. The record reveals that the Parties entered into a

Stipulation and Agreement (“Stipulation”) on December 11, 2003, whereby the Parties agreed upon filing deadlines and a hearing date for the present proceeding. Approval of the Stipulation was granted by the Commission and accordingly Order No. 2003-742¹ was issued December 23, 2003. By Order No. 2003-742, Bragg’s response to Evercom’s Cross-Petition was due to be filed on or before January 10, 2004. Additionally by Order No. 2003-742, direct testimony and exhibits of the Parties were to be filed on or before January 13, 2004. Thereafter, on January 13, 2004, Evercom filed an Amended Cross-Petition to the initial Petition of Bragg.

On January 15, 2004, Bragg filed an Answer to the Amended Cross-Petition (due date January 10, 2004) and prefiled testimony and exhibits (due date January 13, 2004). With Bragg’s Answer to Amended Cross-Petition and testimony and exhibits, the Petitioner’s counsel submitted correspondence requesting extensions of the due dates for filing of Bragg’s Answer and testimony and exhibits, which is the existing matter before the Commission. According to Petitioner’s counsel, the two (2) day² delay in filing of Bragg’s Answer and the one (1) day³ delay in filing of testimony and exhibits are largely due to the delay of Evercom in filing an Amended Cross-Petition. Bragg’s counsel states that consent was given by the Petitioner to Evercom in its delay in filing an Amended Cross-Petition. In light of Bragg’s consent to Evercom’s delay, Bragg’s counsel states

¹See Order No. 2003-742 entitled “Order Approving Stipulation and Approving Schedule”, dated December 23, 2003.

² The due date of January 10, 2004, for filing answer occurred on a Saturday; therefore, the Commission deems the following “workday” of Monday, January 12, 2004, as the date the Petitioner’s answer is due. The two day delay stated would be correct in that the record reveals that Bragg’s filing was sent via U.S. mail on January 14, 2004.

³ The due date for filing testimony and exhibits was January 13, 2004 and according to Order No. 2003-742, direct testimony and exhibits may be postmarked on the due date to be considered timely filed. The one day delay stated would be correct in that the record reveals that Bragg’s testimony and exhibits were sent via U.S. mail on January 14, 2004.

that the present filing is accomplished with the consent of Evercom's counsel. Counsel for Bragg adds that the Petitioner's Answer to Amended Cross-Petition and testimony and exhibits were served on Evercom's counsel via facsimile transmission on the afternoon of January 14, 2004.

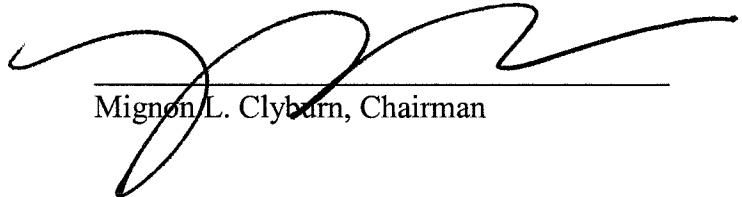
This matter was addressed by the Commission at its regularly scheduled meeting on February 3, 2004. Upon consideration of the request of the Petitioner to extend the due date for two (2) days to file an answer to Evercom's Amended Cross-Petition and to extend the due date for one (1) day to file testimony and exhibits, the Commission finds and concludes that the request should be granted. The Commission discerns no prejudice to any party in granting the requested extensions in this matter since consent was expressed by Evercom to the requested extensions. Accordingly, we approve and grant Bragg's requests for the extensions of time. Under these extensions, the Petitioner shall file and serve its Answer to Evercom's Amended Cross-Petition and file and serve testimony and exhibits on January 14, 2004. We note that the Petitioner's Answer and testimony and exhibits were received by the Commission on January 15, 2004.

IT IS THEREFORE ORDERED:

1. That the request of Petitioner Phillip A. Bragg d/b/a ALCO Bonding for a two (2) day extension to file Answer on the Amended Cross-Petition of Respondents Talton Communications of Carolina, Inc. and Evercom Systems, Inc. is granted.
2. That the request of Petitioner Phillip A. Bragg d/b/a ALCO Bonding for a one (1) day extension to file testimony and exhibits is granted.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Bruce F. Duke, Executive Director

(SEAL)